

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
ROANOKE DIVISION**

UNITED STATES OF AMERICA

V.

JIMMY LAWRENCE NANCE,

Defendant.

Case No. 7:92CR00135

OPINION AND ORDER

JUDGE JAMES P. JONES

Jimmy Lawrence Nance, Pro Se Defendant.

Defendant Jimmy Lawrence Nance, a federal inmate proceeding pro se, has filed a letter-motion seeking appointment of counsel to assist him in filing a third motion pursuant to 18 U.S.C. § 3582(c)(1)(A) seeking compassionate release. Nance was convicted by a jury of the first-degree murder of a postal employee and sentenced in 1993 to life imprisonment. *United States v. Nance*, 67 F.3d 298 (4th Cir. 1995) (affirming conviction), *cert. denied*, 516 U.S. 1136 (1996).

Nance now contends that the extraordinary and compelling reason supporting his release is that the jury should have fixed his sentence rather than the court. While his claim appears without merit, in any event the Fourth Circuit has recently held, following overwhelming circuit authority, that an inmate may not challenge the validity of his conviction and sentence through a compassionate release motion. *United States v. Ferguson*, No. 21-6733, 2022 WL 17256572, at *1 (4th Cir. Nov.

29, 2022). Nance's remedy would be under 28 U.S.C. § 2255, except that, as in *Ferguson*, Nance has previously filed an unsuccessful § 2255 motion. *See In Re Nance*, No. 21-224 (4th Cir. Aug. 26, 2021) (unpublished) (denying authorization to file a second or successive § 2255 motion); *In Re Nance*, No. 18-369 (4th Cir. Nov. 9, 2018) (unpublished) (denying authorization to file a second or successive § 2255 motion).

Accordingly, appointment of counsel is not appropriate, and his motion, ECF No. 395, is DENIED.

It is so **ORDERED**.

ENTER: December 13, 2022

/s/ JAMES P. JONES
Senior United States District Judge